

By: Representative Janus

To: Ways and Means

HOUSE BILL NO. 763

1 AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A RESPONSIBLE
2 ALCOHOL VENDOR PROGRAM DESIGNED TO ELIMINATE THE SALE OF ALCOHOLIC
3 BEVERAGES, BEER AND LIGHT WINE TO UNDERAGE PERSONS AND TO
4 ENCOURAGE THE RESPONSIBLE SALE OF ALCOHOLIC BEVERAGES, BEER AND
5 LIGHT WINE; TO PROVIDE THAT THE STATE TAX COMMISSION SHALL OVERSEE
6 THE PROGRAM; TO PROVIDE THAT THE COMMISSION SHALL APPROVE ALL
7 SERVER TRAINING COURSES AND ISSUE PERMITS TO APPROVED PROVIDERS;
8 TO PROVIDE THAT APPROVED PROVIDERS SHALL ISSUE SERVER CERTIFICATES
9 TO SERVERS UPON SUCCESSFUL COMPLETION OF A SERVER TRAINING COURSE;
10 TO PROVIDE THAT IF A VENDOR'S EMPLOYEE SELLS ALCOHOLIC BEVERAGES,
11 BEER OR LIGHT WINE TO UNDERAGE OR VISIBLY INTOXICATED PERSONS THE
12 VENDOR'S PERMIT SHALL NOT BE SUSPENDED OR REVOKED BY THE
13 COMMISSION FOR THE FIRST OFFENSE COMMITTED ON THE PERMITTED
14 PREMISES WITHIN A SIX-MONTH PERIOD IF ALL SERVERS OF THE VENDOR
15 POSSESS A VALID SERVER'S CERTIFICATION AT THE TIME OF THE
16 VIOLATION OR ALL SERVERS HAVE APPLIED FOR SERVER'S CERTIFICATION
17 WITHIN 30 DAYS AFTER COMMENCING EMPLOYMENT, AND THE VENDOR WAS
18 WITHOUT KNOWLEDGE OF THE VIOLATION OR DID NOT PARTICIPATE IN OR
19 COMMIT THE VIOLATION; TO PROVIDE THAT IF THERE ARE SUBSEQUENT
20 VIOLATIONS WITHIN THE SIX-MONTH PERIOD, SERVER TRAINING MAY, BUT
21 IS NOT REQUIRED TO, BE CONSIDERED AS A MITIGATING FACTOR; TO
22 PROVIDE FOR FEES FOR APPROVED PROVIDER PERMITS; TO AMEND SECTIONS
23 67-1-37, 67-1-71, 67-1-81, 67-3-29 AND 67-3-69, MISSISSIPPI CODE
24 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

26 **SECTION 1.** Sections 1 through 9 of this act shall be known
27 and may be cited as the "Responsible Alcohol Vendor Law" of the
28 State of Mississippi.

29 **SECTION 2.** The purpose of this section is to eliminate the
30 sale of alcoholic beverages, beer and light wine to, and the
31 consumption of alcoholic beverages, beer, and light wine by
32 underage persons; to reduce intoxication and to reduce accidents,
33 injuries, and death in the state that are related to intoxication;
34 and to encourage the responsible sale of alcoholic beverages, beer
35 and light wine by vendors throughout the state and provide for the
36 mitigation of administrative penalties against vendors who comply
37 with responsible practices in accordance with this act.

38 **SECTION 3.** As used in Sections 1 through 9 of this act, of
39 the following words and phrases shall have the meanings ascribed
40 in this section unless the context clearly indicated otherwise:

41 (a) "Commission" means the State Tax Commission.

42 (b) "Person" means any individual, partnership,
43 corporation, association or other legal entity.

44 (c) "Vendor" means any person holding a permit to sell
45 alcoholic beverages, beer or light wine, for on-premises
46 consumption or off-premises consumption.

47 (d) "Server" means any employee of a vendor who is
48 authorized to sell, serve, or mix alcoholic beverages, beer or
49 light wine in the normal course of his or her employment or deals
50 with the customers who purchase or consume alcoholic beverages,
51 beer or light wine.

52 (e) "Server certification" means the certificate issued
53 to a server upon completion of an approved server training course.

54 (f) "Approved provider" means a person approved by the
55 commission to provide server training courses.

56 (g) "Trainer" means an individual employed or
57 authorized by an approved provider to conduct an alcohol server
58 education course in which the successful completion of the course
59 by the student will result in the issuance of a server
60 certification.

61 **SECTION 4.** (1) The commission shall oversee the Responsible
62 Alcohol Vendor Program designed to educate vendors and their
63 employees and customers about selling, serving and consuming
64 alcoholic beverages, beer and light wine in a responsible manner.
65 The commission shall:

66 (a) Approve server training courses for vendors and
67 servers; and

68 (b) Issue and renew approved provider permits.

69 Approved provider permits shall be considered a privilege
70 license and if not expired, suspended or revoked, remain valid
71 within the State of Mississippi.

72 (2) The commission shall approve all server training courses
73 before implementation and issue permits to approved providers.
74 The permits for approved providers shall be valid for two (2)
75 years. The commission may promulgate rules and regulations
76 setting forth additional requirements for providers and/or
77 individual trainers.

78 (3) Approved providers shall retain records of all persons
79 trained for a period of three (3) years after the date of the
80 training and shall make this information available to the
81 commission upon request or as required by regulation.

82 **SECTION 5.** Approved providers shall issue server
83 certificates to servers upon successful completion of a server
84 training course offered by an approved provider. Server
85 certificates shall be valid for a period of two (2) years from the
86 date of completion of the training course and shall be issued and
87 renewed by approved providers in accordance with the rules and
88 regulations promulgated by the commission.

89 **SECTION 6.** The commission may suspend or revoke and
90 disapprove provider's permit or impose a fine for noncompliance
91 with Sections 1 through 9 of this act or for any violation of
92 federal, state or local laws or regulations. The procedure for
93 the suspension, revocation or denial of a permit, or for the
94 imposition of fines, shall be the same as otherwise set forth in
95 Chapter 1, Title 67, Mississippi Code of 1972, for the suspension
96 or revocation of alcoholic beverage permits.

97 **SECTION 7.** (1) If a vendor's employee sells alcoholic
98 beverages, beer or light wine to an underage or visibly
99 intoxicated person, the vendor's permit shall not be suspended or
100 revoked by the commission for the first offense committed on the
101 permitted premises within a six-month period if:

102 (a) All servers of the vendor possessed a valid
103 server's certification at the time of the violation or all servers
104 had applied for server's certification within thirty (30) days
105 after commencing employment; and

106 (b) The vendor was without knowledge of the violation
107 or did not participate in or commit the violation.

108 (2) If there are later violations at the permitted premises
109 within a six-month period, the commission may consider server
110 training in mitigation of a vendor's administrative penalties or
111 fines for the unlawful sale or service of an alcoholic beverage,
112 beer or light wine.

113 (3) The vendor shall have the burden of proof in showing
114 that his or her employees were trained or had applied for training
115 within thirty (30) days of beginning employment.

116 **SECTION 8.** The commission may promulgate rules and
117 regulations to effectuate the program in accordance with the
118 Mississippi Administrative Procedures Law including, but not
119 limited to, rules and regulations related to the development,
120 establishment and maintenance of the program. The commission
121 shall provide for the formation of an industry advisory council to
122 provide comments on the proposed initial rules and regulations.

123 **SECTION 9.** The commission may promulgate rules and
124 regulations regarding fees for approved provider permits to be
125 issued under Sections 1 through 9 of this act. The commission may
126 assess a permit fee not to exceed Five Hundred Dollars (\$500.00)
127 upon any person, organization or entity seeking classification as
128 an approved provider. This permit shall remain valid for a period
129 of two (2) years, unless suspended or revoked by the commission.
130 The commission may renew an approved provider permit upon request
131 and assess a permit renewal fee not to exceed One Hundred Dollars
132 (\$100.00).

133 **SECTION 10.** Section 67-1-37, Mississippi Code of 1972, is
134 amended as follows:

135 **[Until July 1, 2007, this section will read as follows:]**

136 67-1-37. The State Tax Commission, under its duties and
137 powers with respect to the Alcoholic Beverage Control Division
138 therein, shall have the following powers, functions and duties:

139 (a) To issue or refuse to issue any permit provided for
140 by this chapter, or to extend the permit or remit in whole or any
141 part of the permit monies when the permit cannot be used due to a
142 natural disaster or Act of God.

143 (b) To revoke, suspend or cancel, for violation of or
144 noncompliance with the provisions of this chapter, or the law
145 governing the production and sale of native wines, or any lawful
146 rules and regulations of the commission issued hereunder, or for
147 other sufficient cause, any permit issued by it under the
148 provisions of this chapter; however, no such permit shall be
149 revoked, suspended or cancelled except after a hearing of which
150 the permit holder shall have been given reasonable notice and an
151 opportunity to be heard. The commission shall be authorized to
152 suspend the permit of any permit holder for being out of
153 compliance with an order for support, as defined in Section
154 93-11-153. The procedure for suspension of a permit for being out
155 of compliance with an order for support, and the procedure for the
156 reissuance or reinstatement of a permit suspended for that
157 purpose, and the payment of any fees for the reissuance or
158 reinstatement of a permit suspended for that purpose, shall be
159 governed by Section 93-11-157 or Section 93-11-163, as the case
160 may be. If there is any conflict between any provision of Section
161 93-11-157 or Section 93-11-163 and any provision of this chapter,
162 the provisions of Section 93-11-157 or Section 93-11-163, as the
163 case may be, shall control.

164 (c) To prescribe forms of permits and applications for
165 permits and of all reports which it deems necessary in
166 administering this chapter.

167 (d) To fix standards, not in conflict with those
168 prescribed by any law of this state or of the United States, to
169 secure the use of proper ingredients and methods of manufacture of
170 alcoholic beverages.

171 (e) To issue rules regulating the advertising of
172 alcoholic beverages in the state in any class of media and
173 permitting advertising of the retail price of alcoholic beverages.

174 (f) To issue reasonable rules and regulations, not
175 inconsistent with the federal laws or regulations, requiring
176 informative labeling of all alcoholic beverages offered for sale
177 within this state and providing for the standards of fill and
178 shapes of retail containers of alcoholic beverages; however, such
179 containers shall not contain less than fifty (50) milliliters by
180 liquid measure.

181 (g) Subject to the provisions of subsection (3) of
182 Section 67-1-51, to issue rules and regulations governing the
183 issuance of retail permits for premises located near or around
184 schools, colleges, universities, churches and other public
185 institutions, and specifying the distances therefrom within which
186 no such permit shall be issued. The Alcoholic Beverage Control
187 Division shall not allow the sale or consumption of alcoholic
188 beverages in or on the campus of any public school or college, and
189 no alcoholic beverage shall be for sale or consumed at any public
190 athletic event at any grammar or high school or any college.

191 (h) To adopt and promulgate, repeal and amend, such
192 rules, regulations, standards, requirements and orders, not
193 inconsistent with this chapter or any law of this state or of the
194 United States, as it deems necessary to control the manufacture,
195 importation, transportation, distribution and sale of alcoholic
196 liquor, whether intended for beverage or nonbeverage use in a
197 manner not inconsistent with the provisions of this chapter or any
198 other statute, including the native wine laws.

199 (i) To call upon other administrative departments of
200 the state, county and municipal governments, county and city
201 police departments and upon prosecuting officers for such
202 information and assistance as it may deem necessary in the
203 performance of its duties.

204 (j) To prepare and submit to the Governor during the
205 month of January of each year a detailed report of its official
206 acts during the preceding fiscal year ending June 30, including
207 such recommendations as it may see fit to make, and to transmit a
208 like report to each member of the Legislature of this state upon
209 the convening thereof at its next regular session.

210 (k) To inspect, or cause to be inspected, any premises
211 where alcoholic liquors intended for sale are manufactured,
212 stored, distributed or sold, and to examine or cause to be
213 examined all books and records pertaining to the business
214 conducted therein.

215 (l) In the conduct of any hearing authorized to be held
216 by the commission, to hear testimony and take proof material for
217 its information in the discharge of its duties under this chapter;
218 to issue subpoenas, which shall be effective in any part of this
219 state, requiring the attendance of witnesses and the production of
220 books and records; to administer or cause to be administered
221 oaths; and to examine or cause to be examined any witness under
222 oath. Any court of record, or any judge thereof, may by order
223 duly entered require the attendance of witnesses and the
224 production of relevant books subpoenaed by the commission, and
225 such court or judge may compel obedience to its or his order by
226 proceedings for contempt.

227 (m) To investigate the administration of laws in
228 relation to alcoholic liquors in this and other states and any
229 foreign countries, and to recommend from time to time to the
230 Governor and through him to the Legislature of this state such
231 amendments to this chapter, if any, as it may think desirable.

232 (n) To designate hours and days when alcoholic
233 beverages may be sold in different localities in the state which
234 permit such sale.

235 (o) To assign employees to posts of duty at locations
236 where they will be most beneficial for the control of alcoholic
237 beverages, to remove, to dismiss, to suspend without pay, to act
238 as a trial board in hearings based upon charges against employees.
239 After twelve (12) months' service, no employee shall be removed,
240 dismissed, demoted or suspended without just cause and only after
241 being furnished with reasons for such removal, dismissal, demotion
242 or suspension, and upon request given a hearing in his own
243 defense.

244 (p) All hearings conducted by the commission shall be
245 open to the public, and, when deemed necessary, a written
246 transcript shall be made of the testimony introduced thereat.

247 (q) To adopt and promulgate rules and regulations for
248 suspension or revocation of identification cards of employees of
249 permittees for violations of the alcoholic beverage control laws,
250 rules or regulations.

251 (r) To enforce the provisions made unlawful by Sections
252 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

253 (s) To adopt and promulgate rules and regulations for
254 the Responsible Alcohol Vendor Law.

255 **[From and after July 1, 2007, this section will read as**
256 **follows:]**

257 67-1-37. The State Tax Commission, under its duties and
258 powers with respect to the Alcoholic Beverage Control Division
259 therein, shall have the following powers, functions and duties:

260 (a) To issue or refuse to issue any permit provided for
261 by this chapter, or to extend the permit or remit in whole or any
262 part of the permit monies when the permit cannot be used due to a
263 natural disaster or Act of God.

264 (b) To revoke, suspend or cancel, for violation of or
265 noncompliance with the provisions of this chapter, or the law
266 governing the production and sale of native wines, or any lawful
267 rules and regulations of the commission issued hereunder, or for
268 other sufficient cause, any permit issued by it under the
269 provisions of this chapter; however, no such permit shall be
270 revoked, suspended or cancelled except after a hearing of which
271 the permit holder shall have been given reasonable notice and an
272 opportunity to be heard. The commission shall be authorized to
273 suspend the permit of any permit holder for being out of
274 compliance with an order for support, as defined in Section
275 93-11-153. The procedure for suspension of a permit for being out
276 of compliance with an order for support, and the procedure for the
277 reissuance or reinstatement of a permit suspended for that
278 purpose, and the payment of any fees for the reissuance or
279 reinstatement of a permit suspended for that purpose, shall be
280 governed by Section 93-11-157 or 93-11-163, as the case may be.
281 If there is any conflict between any provision of Section
282 93-11-157 or 93-11-163 and any provision of this chapter, the
283 provisions of Section 93-11-157 or 93-11-163, as the case may be,
284 shall control.

285 (c) To prescribe forms of permits and applications for
286 permits and of all reports which it deems necessary in
287 administering this chapter.

288 (d) To fix standards, not in conflict with those
289 prescribed by any law of this state or of the United States, to
290 secure the use of proper ingredients and methods of manufacture of
291 alcoholic beverages.

292 (e) To issue rules regulating the advertising of
293 alcoholic beverages in the state in any class of media and
294 permitting advertising of the retail price of alcoholic beverages.

295 (f) To issue reasonable rules and regulations, not
296 inconsistent with the federal laws or regulations, requiring

297 informative labeling of all alcoholic beverages offered for sale
298 within this state and providing for the standards of fill and
299 shapes of retail containers of alcoholic beverages; however, such
300 containers shall not contain less than fifty (50) milliliters by
301 liquid measure.

302 (g) Subject to the provisions of subsection (3) of
303 Section 67-1-51, to issue rules and regulations governing the
304 issuance of retail permits for premises located near or around
305 schools, colleges, universities, churches and other public
306 institutions, and specifying the distances therefrom within which
307 no such permit shall be issued. The Alcoholic Beverage Control
308 Division shall not allow the sale or consumption of alcoholic
309 beverages in or on the campus of any public school or college, and
310 no alcoholic beverage shall be for sale or consumed at any public
311 athletic event at any grammar or high school or any college.

312 (h) To adopt and promulgate, repeal and amend, such
313 rules, regulations, standards, requirements and orders, not
314 inconsistent with this chapter or any law of this state or of the
315 United States, as it deems necessary to control the manufacture,
316 importation, transportation, distribution and sale of alcoholic
317 liquor, whether intended for beverage or nonbeverage use in a
318 manner not inconsistent with the provisions of this chapter or any
319 other statute, including the native wine laws.

320 (i) To call upon other administrative departments of
321 the state, county and municipal governments, county and city
322 police departments and upon prosecuting officers for such
323 information and assistance as it may deem necessary in the
324 performance of its duties.

325 (j) To prepare and submit to the Governor during the
326 month of January of each year a detailed report of its official
327 acts during the preceding fiscal year ending June 30, including
328 such recommendations as it may see fit to make, and to transmit a

329 like report to each member of the Legislature of this state upon
330 the convening thereof at its next regular session.

331 (k) To inspect, or cause to be inspected, any premises
332 where alcoholic liquors intended for sale are manufactured,
333 stored, distributed or sold, and to examine or cause to be
334 examined all books and records pertaining to the business
335 conducted therein.

336 (l) In the conduct of any hearing authorized to be held
337 by the commission, to hear testimony and take proof material for
338 its information in the discharge of its duties under this chapter;
339 to issue subpoenas, which shall be effective in any part of this
340 state, requiring the attendance of witnesses and the production of
341 books and records; to administer or cause to be administered
342 oaths; and to examine or cause to be examined any witness under
343 oath. Any court of record, or any judge thereof, may by order
344 duly entered require the attendance of witnesses and the
345 production of relevant books subpoenaed by the commission, and
346 such court or judge may compel obedience to its or his order by
347 proceedings for contempt.

348 (m) To investigate the administration of laws in
349 relation to alcoholic liquors in this and other states and any
350 foreign countries, and to recommend from time to time to the
351 Governor and through him to the Legislature of this state such
352 amendments to this chapter, if any, as it may think desirable.

353 (n) To designate hours and days when alcoholic
354 beverages may be sold in different localities in the state which
355 permit such sale.

356 (o) To assign employees to posts of duty at locations
357 where they will be most beneficial for the control of alcoholic
358 beverages, to remove, to dismiss, to suspend without pay, to act
359 as a trial board in hearings based upon charges against employees.
360 After twelve (12) months' service, no employee shall be removed,
361 dismissed, demoted or suspended without just cause and only after

362 being furnished with reasons for such removal, dismissal, demotion
363 or suspension, and upon request given a hearing in his own
364 defense.

365 (p) All hearings conducted by the commission shall be
366 open to the public, and, when deemed necessary, a written
367 transcript shall be made of the testimony introduced thereat.

368 (q) To adopt and promulgate rules and regulations for
369 suspension or revocation of identification cards of employees of
370 permittees for violations of the alcoholic beverage control laws,
371 rules or regulations.

372 (r) To adopt and promulgate rules and regulations for
373 the Responsible Alcohol Vendor Law.

374 **SECTION 11.** Section 67-1-71, Mississippi Code of 1972, is
375 amended as follows:

376 67-1-71. The commission may revoke or suspend any permit
377 issued by it for a violation by the permittee of any of the
378 provisions of this chapter or of the regulations promulgated under
379 it by the commission.

380 Permits must be revoked or suspended for the following
381 causes:

382 (a) Conviction of the permittee for the violation of
383 any of the provisions of this chapter;

384 (b) Willful failure or refusal by any permittee to
385 comply with any of the provisions of this chapter or of any rule
386 or regulation adopted pursuant thereto;

387 (c) The making of any materially false statement in any
388 application for a permit;

389 (d) Conviction of one or more of the clerks, agents or
390 employees of the permittee, of any violation of this chapter upon
391 the premises covered by such permit within a period of time as
392 designated by the rules or regulations of the commission;

393 (e) The possession on the premises of any retail
394 permittee of any alcoholic beverages upon which the tax has not
395 been paid;

396 (f) The willful failure of any permittee to keep the
397 records or make the reports required by this chapter, or to allow
398 an inspection of such records by any duly authorized person;

399 (g) The suspension or revocation of a permit issued to
400 the permittee by the federal government, or conviction of
401 violating any federal law relating to alcoholic beverages;

402 (h) The failure to furnish any bond required by this
403 chapter within fifteen (15) days after notice from the commission;
404 and

405 (i) The conducting of any form of illegal gambling on
406 the premises of any permittee or on any premises connected
407 therewith or the presence on any such premises of any gambling
408 device with the knowledge of the permittee.

409 The provisions of paragraph (i) of this section shall not
410 apply to gambling or the presence of any gambling devices, with
411 knowledge of the permittee, on board a cruise vessel in the waters
412 within the State of Mississippi, which lie adjacent to the State
413 of Mississippi south of the three (3) most southern counties in
414 the State of Mississippi, or on any vessel as defined in Section
415 27-109-1 whenever such vessel is on the Mississippi River or
416 navigable waters within any county bordering on the Mississippi
417 River. The commission may, in its discretion, issue on-premises
418 retailer's permits to a common carrier of the nature described in
419 this paragraph.

420 In exercising its authority under this section, the
421 commission shall recognize the defense created for permittees
422 certified under the Responsible Alcohol Vendor Law.

423 No permit shall be revoked except after a hearing by the
424 commission with reasonable notice to the permittee and an
425 opportunity for him to appear and defend.

426 In addition to the causes specified in this section and other
427 provisions of this chapter, the commission shall be authorized to
428 suspend the permit of any permit holder for being out of
429 compliance with an order for support, as defined in Section
430 93-11-153. The procedure for suspension of a permit for being out
431 of compliance with an order for support, and the procedure for the
432 reissuance or reinstatement of a permit suspended for that
433 purpose, and the payment of any fees for the reissuance or
434 reinstatement of a permit suspended for that purpose, shall be
435 governed by Section 93-11-157 or 93-11-163, as the case may be.
436 If there is any conflict between any provision of Section
437 93-11-157 or 93-11-163 and any provision of this chapter, the
438 provisions of Section 93-11-157 or 93-11-163, as the case may be,
439 shall control.

440 **SECTION 12.** Section 67-1-81, Mississippi Code of 1972, is
441 amended as follows:

442 67-1-81. (1) (a) Any permittee or other person who shall
443 sell, furnish, dispose of, give, or cause to be sold, furnished,
444 disposed of, or given, any alcoholic beverage to any person under
445 the age of twenty-one (21) years shall be guilty of a misdemeanor
446 and shall be punished by a fine of not less than Five Hundred
447 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00)
448 for a first offense. For a second or subsequent offense, such
449 permittee or other person shall be punished by a fine of not less
450 than One Thousand Dollars (\$1,000.00) nor more than Two Thousand
451 Dollars (\$2,000.00), or by imprisonment for not more than one (1)
452 year, or by both such fine and imprisonment in the discretion of
453 the court. Upon conviction of a second offense under the
454 provisions of this section the permit of any permittee so
455 convicted shall be automatically and permanently revoked.

456 (b) For the purposes of this subsection, the actions of
457 an employee of a permittee shall not be attributable to the
458 permittee if:

459 (i) All employees of the permittee who are servers
460 as defined in the Responsible Alcohol Vendor Law possessed a valid
461 server's certification at the time of the violation or all servers
462 had applied for server's certification within thirty (30) days
463 after beginning employment; and

464 (ii) The permittee was without knowledge of the
465 violation or did not participate in or commit the violation.

466 (2) Any person under the age of twenty-one (21) years who
467 purchases, receives, or has in his or her possession in any public
468 place, any alcoholic beverages, shall be guilty of a misdemeanor
469 and shall be punished by a fine of not less than Two Hundred
470 Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00).
471 Provided, that clearing or busing tables that have glasses or
472 other containers that contain or did contain alcoholic beverages,
473 or stocking, bagging or otherwise handling purchases of alcoholic
474 beverages shall not be deemed possession of alcoholic beverages
475 for the purposes of this section. Provided further, that a person
476 who is at least eighteen (18) years of age but under the age of
477 twenty-one (21) years who waits on tables by taking orders for or
478 delivering orders of alcoholic beverages shall not be deemed to
479 unlawfully possess or furnish alcoholic beverages if in the scope
480 of his employment by the holder of an on-premises retailer's
481 permit. This exception shall not authorize a person under the age
482 of twenty-one (21) to tend bar or act in the capacity of
483 bartender. Any person under the age of twenty-one (21) who
484 knowingly makes a false statement to the effect that he or she is
485 twenty-one (21) years old or older to any person engaged in the
486 sale of alcoholic beverages for the purpose of obtaining the same
487 shall be guilty of a misdemeanor and shall be punished by a fine
488 of not less than Two Hundred Dollars (\$200.00) nor more than Five
489 Hundred Dollars (\$500.00), and a sentence to not more than thirty
490 (30) days' community service.

491 (3) The term "community service" as used in this section
492 shall mean work, projects or services for the benefit of the
493 community assigned, supervised and recorded by appropriate public
494 officials.

495 (4) If a person under the age of twenty-one (21) years is
496 convicted or enters a plea of guilty of purchasing, receiving or
497 having in his or her possession in any public place any alcoholic
498 beverages in violation of subsection (2) of this section, the
499 trial judge, in lieu of the penalties otherwise provided under
500 subsection (2) of this section, shall suspend the minor's driver's
501 license by taking and keeping it in the custody of the court for a
502 period of time not to exceed ninety (90) days. The judge so
503 ordering the suspension shall enter upon his docket "DEFENDANT'S
504 DRIVER'S LICENSE SUSPENDED FOR ____ DAYS IN LIEU OF CONVICTION"
505 and such action by the trial judge shall not constitute a
506 conviction. During the period that the minor's driver's license
507 is suspended, the trial judge shall suspend the imposition of any
508 fines or penalties that may be imposed under subsection (2) of
509 this section and may place the minor on probation subject to such
510 conditions as the judge deems appropriate. If the minor violates
511 any of the conditions of probation, then the trial judge shall
512 return the driver's license to the minor and impose the fines,
513 penalties or both, that he would have otherwise imposed, and such
514 action shall constitute a conviction.

515 **SECTION 13.** Section 67-3-29, Mississippi Code of 1972, is
516 amended as follows:

517 67-3-29. (1) The commissioner, or a hearing officer or the
518 board of review, as designated by the commissioner, after a show
519 cause hearing, shall revoke or suspend any permit granted by
520 authority of this chapter to any person who shall violate any of
521 the provisions of this chapter or the revenue laws of this state
522 relating to engaging in transporting, storing, selling,
523 distributing, possessing, receiving or manufacturing of wines or

524 beers, or any person who shall hereafter be convicted of the
525 unlawful sale of intoxicating liquor, or any person who shall
526 allow or permit any form of illegal gambling or immorality on the
527 premises described in such permit. The commissioner shall not
528 revoke or suspend a permit of a retailer for the sale of light
529 wine or beer to a person under the age of twenty-one (21) years
530 until there has been a conviction of the permit holder or an
531 employee of the permit holder for such violation.

532 (2) If any person exercising any privilege taxable under the
533 provisions of Chapter 71 of Title 27, Mississippi Code of 1972,
534 shall willfully neglect or refuse to comply with the provisions of
535 such chapter, or any rules or regulations promulgated by the
536 commissioner under authority of such chapter, or the provisions of
537 this chapter, including maintaining the qualifications of an
538 applicant under Section 67-3-19, during the permit period, the
539 commissioner shall be authorized to revoke or suspend the permit
540 theretofore issued to the person. Any person whose permit shall
541 have been revoked by the commissioner shall be thereafter
542 prohibited from exercising any privilege under the provisions of
543 Chapter 71 of Title 27, Mississippi Code of 1972, for a period of
544 two (2) years from the date of the revocation. The commissioner
545 may, however, for good cause shown, grant a new permit upon such
546 conditions as the commissioner may prescribe. Any person whose
547 permit shall have been suspended by the commissioner shall be
548 prohibited from exercising any privilege under the provisions of
549 Chapter 71 of Title 27, Mississippi Code of 1972, during the
550 period of the suspension. Failure of the person to comply with
551 the terms of the suspension shall be cause for revocation of his
552 permit, in addition to the other penalties provided by law.

553 (3) In addition to the reasons specified in this section and
554 other provisions of this chapter, the commissioner shall be
555 authorized to suspend the permit of any permit holder for being
556 out of compliance with an order for support, as defined in Section

557 93-11-153. The procedure for suspension of a permit for being out
558 of compliance with an order for support, and the procedure for the
559 reissuance or reinstatement of a permit suspended for that
560 purpose, and the payment of any fees for the reissuance or
561 reinstatement of a permit suspended for that purpose, shall be
562 governed by Section 93-11-157 or Section 93-11-163, as the case
563 may be. If there is any conflict between any provision of Section
564 93-11-157 or Section 93-11-163 and any provision of this chapter,
565 the provisions of Section 93-11-157 or 93-11-163, as the case may
566 be, shall control.

567 (4) In exercising its authority under this section, the
568 commission shall recognize the defense created for permittees
569 certified under the Responsible Alcohol Vendor Law.

570 **SECTION 14.** Section 67-3-69, Mississippi Code of 1972, is
571 amended as follows:

572 67-3-69. (1) Except as to Sections 67-3-17, 67-3-23,
573 67-3-27, 67-3-55 and 67-3-57, any violation of any provision of
574 this chapter or of any rule or regulation of the commissioner,
575 shall be a misdemeanor and, where the punishment therefor is not
576 elsewhere prescribed herein, shall be punished by a fine of not
577 more than Five Hundred Dollars (\$500.00) or imprisonment for not
578 more than six (6) months, or both, in the discretion of the court.
579 If any person so convicted shall be the holder of any permit or
580 license issued by the commissioner under authority of this
581 chapter, such permit or license shall from and after the date of
582 such conviction be void and the holder thereof shall not
583 thereafter, for a period of one (1) year from the date of such
584 conviction, be entitled to any permit or license for any purpose
585 authorized by this chapter. Upon conviction of the holder of any
586 permit or license, the appropriate law enforcement officer shall
587 seize the permit or license and transmit it to the commissioner.

588 (2) (a) Any person who shall violate any provision of
589 Section 67-3-17, 67-3-23, 67-3-27 or 67-3-55 shall be guilty of a

590 misdemeanor, and upon conviction thereof shall be punished by a
591 fine of not more than Five Hundred Dollars (\$500.00) or by
592 imprisonment in the county jail for not more than six (6) months,
593 or by both such fine and imprisonment, in the discretion of the
594 court.

595 (b) Any person who shall violate any provision of
596 Section 67-3-57 shall be guilty of a misdemeanor, and upon
597 conviction thereof, shall be punished by a fine of not more than
598 One Thousand Dollars (\$1,000.00) or by imprisonment in the county
599 jail for not more than one (1) year, or by both, in the discretion
600 of the court. Any person convicted of violating any provision of
601 the sections referred to in this subsection shall forfeit his
602 permit, and shall not thereafter be permitted to engage in any
603 business taxable under the provisions of Sections 27-71-301
604 through 27-71-347.

605 (3) If the holder of a permit, or the employee of the holder
606 of a permit, shall be convicted of selling any beer or wine to any
607 person under the age of twenty-one (21) years from the licensed
608 premises in violation of Section 67-3-53(b), then, in addition to
609 any other penalty provided for by law, the holder of the permit,
610 or employee of the holder of a permit, may be punished as follows:

611 (a) For the first offense on the licensed premises, by
612 a fine of not less than Two Hundred Dollars (\$200.00) nor more
613 than One Thousand Dollars (\$1,000.00) and/or the sale of beer or
614 wine on the premises from which the sale occurred may be
615 prohibited for three (3) months.

616 (b) For a second offense occurring on the licensed
617 premises within twelve (12) months of the first offense, by a fine
618 of not less than Two Hundred Dollars (\$200.00) nor more than One
619 Thousand Five Hundred Dollars (\$1,500.00) and/or the sale of beer
620 or wine on the premises from which the sale occurred may be
621 prohibited for six (6) months.

622 (c) For a third or subsequent offense occurring on the
623 licensed premises within twelve (12) months of the first, by a
624 fine of not less than One Thousand Dollars (\$1,000.00) nor more
625 than Five Thousand Dollars (\$5,000.00) and/or the sale of beer or
626 wine on the premises from which the sale occurred may be
627 prohibited for one (1) year.

628 (4) For the purposes of subsections (3)(a) and (3)(b) of
629 this section, the actions of an employee of a holder of a permit
630 shall not be attributable to the holder of the permit if:

631 (a) All employees of the holder who are servers as
632 defined in the Responsible Alcohol Vendor Law possessed a valid
633 server's certification at the time of the violation or all servers
634 had applied for server's certification within thirty (30) days
635 after beginning employment; and

636 (b) The holder was without knowledge of the violation
637 or did not participate in or commit the violation.

638 (5) A person who sells any beer or wine to a person under
639 the age of twenty-one (21) years shall not be guilty of a
640 violation of Section 67-3-53(b) if the person under the age of
641 twenty-one (21) years represents himself to be twenty-one (21)
642 years of age or older by displaying an apparently valid
643 Mississippi driver's license containing a physical description
644 consistent with his appearance or by displaying some other
645 apparently valid identification document containing a picture and
646 physical description consistent with his appearance for the
647 purpose of inducing the person to sell beer or wine to him.

648 (6) If the holder of a permit to operate a brewpub is
649 convicted of violating the provisions of Section 67-3-22(3), then,
650 in addition to any other provision provided for by law, the holder
651 of the permit shall be punished as follows:

652 (a) For the first offense, the holder of a permit to
653 operate a brewpub may be fined in an amount not to exceed Five
654 Hundred Dollars (\$500.00).

655 (b) For a second offense occurring within twelve (12)
656 months of the first offense, the holder of a permit to operate a
657 brewpub may be fined an amount not to exceed One Thousand Dollars
658 (\$1,000.00).

659 (c) For a third or subsequent offense occurring within
660 twelve (12) months of the first offense, the holder of a permit to
661 operate a brewpub may be fined an amount not to exceed Five
662 Thousand Dollars (\$5,000.00) and the permit to operate a brewpub
663 shall be suspended for thirty (30) days.

664 **SECTION 15.** This act shall take effect and be in force from
665 and after July 1, 2006.